

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

LISA BIRON)
)
v.) 1:16-cv-108-PB
)
UNITED STATES OF AMERICA)

UNITED STATES' RESPONSE TO DEFENDANT'S
MOTION TO EXTEND NOTICE OF APPEAL PERIOD

This Court denied the defendant's motion for § 2255 relief in October 2017. A year later, the defendant filed a motion for this Court to extend the time for her to file a notice of appeal based on excusable neglect. The Court does not have the power to grant this extension. Under Federal Rule Appellate Procedure 4(a)(5), the defendant must file the motion to extend time within 30 days of the running of the notice of appeal period. The defendant had 60 days to file a notice of appeal because the United States is a party. Fed. R. App. P. 4(a)(1)(B). The defendant did not file her motion to extend within 30 days of the expiration of this 60 day period. Therefore, this Court should deny the defendant's motion to extend the notice of appeal period. Pruitt v. Metcalf & Eddy, Inc., 2006 WL 760279, at *1 (S.D.N.Y. 2006).

Dated: November 28, 2018

Respectfully submitted,
SCOTT W. MURRAY
United States Attorney

By: /s/ Seth R. Aframe
Seth R. Aframe, AUSA
53 Pleasant Street, 5th Floor
Concord, NH 03301
(603) 225-1552
seth.aframe@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of this response has been forwarded this date via first class mail to Lisa Biron, FCI Waseca, PO Box 1731, Waseca, MN 56093-0000, pro se defendant.

/s/ Seth R. Aframe

Seth R. Aframe, AUSA